

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIS DAVIS,  
  
Petitioner,  
  
v.  
  
PEOPLE OF SAN JUAN,  
  
Respondent.

No. 2:24-cv-00734-EFB (HC)

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis.

Examination of the affidavit reveals petitioner is unable to afford the costs of this action. Accordingly, leave to proceed in forma pauperis is granted. 28 U.S.C. § 1915(a).

Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254 provides for summary dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court.” In the instant case, it is plain from the petition that petitioner is not entitled to federal habeas relief.

Petitioner seeks, through this petition, solely a court order reducing the amount of money owed under his state court restitution order. ECF No. 1. Petitioner expressly does not challenge

1 his conviction or sentence. *Id.* at 7-8.

2 28 U.S.C. § 2254(a) provides that “a district court shall entertain an application for a writ  
3 of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court only  
4 on the ground that he is in custody in violation of the Constitution or laws or treaties of the United  
5 States.” Because petitioner does not allege that his custody violates federal law, this court lacks  
6 jurisdiction over the petition. *Bailey v. Hill*, 599 F.3d 976, 981 (9th Cir. 2010) (holding that  
7 district courts lack jurisdiction under § 2254 to hear challenges to restitution orders raised by state  
8 prisoners who do not challenge the lawfulness of their custody under federal law).

9 Because it appears from the face of the petition that petitioner is not entitled to relief, the  
10 petition must be summarily dismissed.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Petitioner’s motion for leave to proceed in forma pauperis (ECF No. 2) is GRANTED;  
13 2. The Clerk of Court randomly assign a district judge to this action.

14 It is further RECOMMENDED that the court dismiss the petition without prejudice.

15 These findings and recommendations are submitted to the United States District Judge  
16 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
17 after being served with these findings and recommendations, any party may file written  
18 objections with the court and serve a copy on all parties. Such a document should be captioned  
19 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
20 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
21 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

22  
23 Dated: November 12, 2024

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE